

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

JON EARL PHELAN,	§	
Petitioner,	§	
VS.	§	CIVIL ACTION NO.4:06-CV-122-Y
	§	
NATHANIEL QUARTERMAN, Director,	§	
T.D.C.J., Correctional	§	
Institutions Division,	§	
Respondent.	§	

ORDER ADOPTING MAGISTRATE JUDGE'S FINDINGS AND CONCLUSIONS

In this action brought by petitioner Jon Earl Phelan under 28 U.S.C. § 2254, the Court has made an independent review of the following matters in the above-styled and numbered cause:

1. The pleadings and record;
2. The proposed findings, conclusions, and recommendation of the United States magistrate judge filed on October 19, 2006;
3. The respondent's written objections to the proposed findings, conclusions, and recommendation of the United States magistrate judge filed on November 8, 2006; and
4. The petitioner's written objections to the proposed findings, conclusions, and recommendation of the United States magistrate judge filed on November 16, 2006.

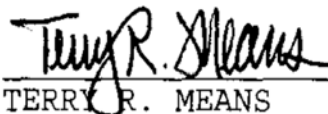
The Court, after de novo review, concludes that the Petitioner's objections must be overruled, that the Respondent's objections must be sustained, and that the magistrate judge's findings and conclusions should be adopted, except to the extent that petitioner Phelan's second claim, that the trial court lacked jurisdiction to amend the judgment, will be dismissed with prejudice as procedurally barred; and Phelan's first claim, that his guilty plea was involuntary, will be denied.

Therefore, the findings, conclusions, and recommendation of the magistrate judge are ADOPTED, except as modified herein.

Jon Earl Phelan's petition for writ of habeas corpus grounds for relief two, three, and four are barred from review by this Court on the basis of procedural default, and are therefore DISMISSED WITH PREJUDICE.

Phelan's petition for writ of habeas corpus ground for relief one is DENIED.

SIGNED November 21, 2006.



TERRY R. MEANS
UNITED STATES DISTRICT JUDGE